



658474

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment

Delete lines 104 - 302

and insert:

(f) Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek relief other than compensatory damages in excess of \$100,000 or punitive damages, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in



658474

11 providing pro bono representation.

12 (g) Funding provided by a nonprofit organization exempt
13 from federal income tax under s. 501(c)(3) of the United States
14 Internal Revenue Code, by grant or otherwise, to support the
15 pursuit of litigation that does not seek compensatory damages in
16 excess of \$100,000 or punitive damages.

17 (6) "National security interests" means those interests
18 relating to the national defense, foreign intelligence and
19 counterintelligence, international, and domestic security, and
20 foreign relations.

21 (7) "Proprietary information" means information developed,
22 created, or discovered by a person, or which became known by or
23 was conveyed to the person, which has commercial value in the
24 person's business. The term includes, but is not limited to,
25 domain names, trade secrets, copyrights, ideas, techniques,
26 inventions, regardless of whether patentable, and other
27 information of any type relating to designs, configurations,
28 documentation, recorded data, schematics, circuits, mask works,
29 layouts, source code, object code, master works, master
30 databases, algorithms, flow charts, formulae, works of
31 authorship, mechanisms, research, manufacture, improvements,
32 assembly, installation, intellectual property including patents
33 and patent applications, and information concerning the person's
34 actual or anticipated business, research, or development or
35 received in confidence by or for the person from any other
36 source.

37 (8) "Sovereign wealth fund" means an investment fund owned
38 or controlled by a foreign principal or an agent thereof.

39 69.103 Litigation financing agreement; representation of



658474

40 client interests.—A court may take the existence of a litigation
41 financing agreement into account:

42 (1) In a class action lawsuit brought in the courts of this
43 state when determining whether a class representative or class
44 counsel would adequately and fairly represent the interests of
45 the class.

46 (2) In actions involving a common question of law or fact
47 pending before the court which may be or have been consolidated
48 when determining whether the lead counsel or any co-lead counsel
49 would adequately and fairly represent the interests of the
50 parties to such actions.

51 69.105 Prohibited conduct.—A litigation financier may not:

52 (1) Direct, or make any decisions with respect to, the
53 course of any civil action, administrative proceeding, claim, or
54 other legal proceeding for which the litigation financier has
55 provided financing, or any settlement or other disposition
56 thereof. This prohibition includes, but is not limited to,
57 decisions in appointing or changing counsel, choice or use of
58 expert witnesses, and litigation strategy. All rights to make
59 decisions with respect to the course and settlement or other
60 disposition of the subject civil action, administrative
61 proceeding, claim, or other legal proceeding remain solely with
62 the parties to such action, claim, or proceeding and their
63 counsel of record.

64 (2) Contract for or receive, whether directly or
65 indirectly, a larger share of the proceeds of a civil action,
66 administrative proceeding, claim, or other legal proceeding
67 financed by a litigation financing agreement than the share of
68 the proceeds collectively recovered by the plaintiffs to any



658474

69 such action, claim, or proceeding after the payment of any
70 attorney fees and costs owed in connection to such action,
71 claim, or proceeding.

72 (3) Pay or offer to pay a commission, referral fee, or
73 other consideration to any person, including an attorney, law
74 firm, or health care practitioner, for referring a person to the
75 litigation financier.

76 (4) Assign or securitize a litigation financing agreement
77 in whole or in part.

78 (5) Be assigned rights to or in a civil action,
79 administrative proceeding, claim, or other legal proceeding for
80 which the litigation financier provided financing, other than
81 the right to receive a share of the proceeds of such action,
82 claim, or proceeding pursuant to the litigation financing
83 agreement.

84 69.107 Required disclosures; discovery obligations.—

85 (1) An attorney who enters into a litigation financing
86 agreement must disclose the existence and deliver a copy of the
87 agreement to the client he or she represents in the civil
88 action, administrative proceeding, claim, or other legal
89 proceeding financed by the agreement within 30 days after being
90 retained as counsel by such client, or within 30 days after
91 entering into the litigation financing agreement, whichever is
92 earlier.

93 (2) Except as otherwise stipulated to by the parties to a
94 civil action, administrative proceeding, claim, or other legal
95 proceeding, or as otherwise ordered by a court of competent
96 jurisdiction, a party to or counsel of record for a civil
97 action, administrative proceeding, claim, or other legal



658474

98 proceeding who enters into a litigation financing agreement with
99 respect to such action, claim, or proceeding must, without
100 awaiting a discovery request and within 30 days after
101 commencement of such action, claim, or proceeding, disclose the
102 existence and deliver to the following parties a copy of the
103 litigation financing agreement:

104 (a) All parties to the civil action, administrative
105 proceeding, claim, or other legal proceeding.

106 (b) The court, agency, or tribunal in which the civil
107 action, administrative proceeding, claim, or other legal
108 proceeding is pending.

109 (c) Any known person, including an insurer, with a
110 preexisting contractual obligation to indemnify or defend a
111 party to the civil action, administrative proceeding, claim, or
112 other legal proceeding.

113 (3) In addition to complying with subsections (1) and (2),
114 the class counsel of a putative class in a class action lawsuit
115 for which litigation financing is obtained must disclose to the
116 following persons the existence of any legal, financial, or
117 other relationship between the class counsel and the litigation
118 financier that exists separate and apart from the litigation
119 financing agreement itself within 30 days after commencement of
120 such action or of the execution of the litigation financing
121 agreement, whichever is earlier:

122 (a) All parties to the civil action, administrative
123 proceeding, claim, or other legal proceeding.

124 (b) The court, agency, or tribunal in which the civil
125 action, administrative proceeding, claim, or other legal
126 proceeding is pending.



658474

127 (c) Any known person, including an insurer, with a
128 preexisting contractual obligation to indemnify or defend a
129 party to the civil action, administrative proceeding, claim, or
130 other legal proceeding.

131 (4) The class counsel in a class action or putative class
132 action lawsuit for which litigation financing is obtained must,
133 upon the request of a class member, disclose and deliver a copy
134 of the litigation financing agreement to the class member.

135 (5) In addition to complying with subsections (1) and (2),
136 the lead counsel and co-lead counsel, if any, for civil actions
137 consolidated in the courts of this state must disclose to the
138 following parties the existence of and deliver a copy of any
139 litigation financing agreement entered into in connection with
140 any of the consolidated actions:

141 (a) All parties to the consolidated civil actions.

142 (b) The court, agency, or tribunal in which the civil
143 actions are pending.

144 (c) Any known person, including an insurer, with a
145 preexisting contractual obligation to indemnify or defend a
146 party to the civil actions.

147 (6) (a) A party to a civil action, administrative
148 proceeding, claim, or other legal proceeding, or such party's
149 counsel of record, must, except as otherwise stipulated to by
150 the parties to such action, claim, or proceeding, or as
151 otherwise ordered by a court of competent jurisdiction, disclose
152 as prescribed in paragraph (b) the name, address, and
153 citizenship or country of incorporation or registration of any
154 foreign person, foreign principal, or sovereign wealth fund
155 that, with respect to the action, claim, or proceeding:



658474

156 1. Obtained or will obtain a right to receive any payment
157 that is contingent in any respect on the outcome of such civil
158 action, administrative proceeding, claim, or other legal
159 proceeding, or on the outcome of any matter within a portfolio
160 that includes such civil action, administrative proceeding,
161 claim, or other legal proceeding and involves the same counsel
162 or affiliated counsel;

163 2. Provided or will provide funds, whether directly or
164 indirectly, which funds have been or will be used to satisfy any
165 term of a litigation financing agreement into which the party or
166 the party's counsel of record has entered to finance such civil
167 action, administrative proceeding, claim, or other legal
168 proceeding; or

169 3. Has received or is entitled to receive proprietary
170 information or information affecting national security interests
171 obtained as a result of the financing of such civil action,
172 administrative proceeding, claim, or other legal proceeding by a
173 litigation financing agreement entered into by the party or the
174 party's counsel of record.

175 (b) The disclosures required in paragraph (a) must be made
176 to the following persons:

177 1. All parties to the civil action, administrative
178 proceeding, claim, or other legal proceeding.

179 2. The court, agency, or tribunal in which the civil
180 action, administrative proceeding, claim, or other legal
181 proceeding is pending.

182 3. Any known person, including an insurer, with a
183 preexisting contractual obligation to indemnify or defend a
184 party to the civil action, administrative proceeding, claim, or



658474

185 other legal proceeding.

186 4. The Department of Financial Services.

187 5. The Office of the Attorney General.

188 (7) The fact of the existence of a litigation financing
189 agreement and the identities of all parties to the agreement are
190 discoverable in any civil action, administrative proceeding,
191 claim, or other legal proceeding financed by such an agreement,
192 unless the court, for good cause shown, determines otherwise.

193 (8) The disclosure obligations in this section are ongoing
194 obligations. Thus, when a party to a civil action,
195 administrative proceeding, claim, or other legal proceeding, or
196 his or her counsel of record:

197 (a) Enters into or amends a litigation financing agreement
198 after the commencement of such action, claim, or proceeding, the
199 party or attorney has 30 days after the date of entering into or
200 amending the litigation financing agreement to comply with the
201 disclosure obligations established herein.

202 (b) Obtains information on the involvement of a foreign
203 person, foreign principal, or sovereign wealth fund after the
204 commencement of such action, claim, or proceeding, which
205 involvement would require disclosure under this section, the
206 party or attorney has 30 days after the date of obtaining the
207 information to comply with the disclosure obligations
208 established herein.

209 (9) (a) A party, or the party's counsel, who is required to
210 disclose a copy of the litigation financing agreement under
211 subsection (2) or subsection (5) may redact from the agreement
212 the dollar amounts being financed. Another party may petition
213 the circuit court in the county where the civil action,



658474

214 administrative proceeding, claim, or other legal proceeding is
215 pending to:

216 1. Dispute the extent of such redactions if information
217 other than the dollar amounts being financed has been improperly
218 redacted from the agreement; or

219 2. Show cause that the dollar amounts being financed should
220 be disclosed.

221 (b) In the case of such petition, the party or counsel
222 disclosing the agreement shall submit an unredacted copy of the
223 agreement to the court for inspection in camera. If the court
224 finds that information other than the dollar amounts being
225 financed has been improperly redacted from the agreement or that
226 cause has been shown to disclose the dollar amounts being
227 financed, the court must order that such information be
228 disclosed to all parties to whom the agreement must be
229 disclosed.